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Attorneys for Defendant,  
Infinite Energy Home Services, Inc.

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

INFINITY ENERGY, INC., a  
California Corporation,  
Plaintiff,  
  
v.

INFINITE ENERGY HOME  
SERVICES, INC., a California  
Corporation,  
  
Defendant.

Case No. 2:21-cv-00438-WBS-KJN  
Hon. William B. Shubb

**DECLARATION OF CAGIL AREL  
IN SUPPORT OF  
MOTION FOR SUMMARY JUDGMENT,  
OR IN THE ALTERNATIVE,  
MOTION FOR PARTIAL SUMMARY JUDGMENT  
CONCERNING E-FILING**

Date: May 30, 2023  
Time: 1:30 p.m.  
Location: Courtroom 5

I, Cagil Arel, declare as follows:

1. I am an attorney at law duly licensed to practice in this Court and counsel of record for Defendant Infinite Energy Home Services ("Defendant"). I have personal knowledge of the facts stated herein and, if called to testify, could and would competently testify thereto.

2. On April 24, 2023, I telephoned the Courtroom Deputy Karen Kirksey Smith for the Court of Honorable William B. Shubb. I notified



1 Ms. Smith of Defendant's filing of Summary Judgment that was being  
2 filed on the same date April 24, 2023. The deadline for filing the  
3 aforementioned document was April 24, 2023. Ms. Smith told me that  
4 the Court had availability on May 30, 2023 at 1:30 p.m. for a hearing  
5 on the motion.

6  
7 3. Thereafter, we experienced difficulties. We are unaware as  
8 to the precise source because there were multiple issues on April 24  
9 with regards to inability to view the Docket, the e-filing system  
10 freezing and not permitting to proceed with the next page, and my  
11 own failed attempts as locating the correct procedure for a Notice  
12 of Lodging in order to go through the Box App. I attempted to complete  
13 the filing of the Motion multiple times, but I was unable to do so.  
14 Shortly after my final attempt, I gave written notice to Ms. Smith  
15 and informed her of the issue. I explained the reason as clearly as  
16 possible, and I also requested that the Court to not let this issue  
17 prejudice any of the parties involved. A true and correct  
18 correspondence of the notice I sent to Ms. Smith is attached as  
19 Exhibit 1.

20 4. On April 25, I spoke to Ms. Smith on the phone regarding  
21 how to best proceed. Ms. Smith informed that I was obligated to go  
22 through the e-filing system for motion papers, but that I could  
23 submit the exhibits separately through the Box App.

24 5. On April 25, I gave written notice of the issue to counsels  
25 for Plaintiff. A true and correct copy of the notice is attached  
26 herein as Exhibit 2.  
27  
28



1        6. I respectfully request this Court to consider this as a  
2 special circumstance and not let it prejudice the parties to the  
3 suit. Upon the occurrence of this issue, I made good faith efforts  
4 to remedy it, I did so in a timely manner, and I notified all the  
5 parties to the suit, also including this Court.

6        I declare under penalty of perjury that the foregoing is true and  
7 correct.  
8

9  
10 DATED: APRIL 25, 2023

**KROGH & DECKER, LLP**

11  
12 By: /cagil arel/

13 CAGIL AREL  
14 Attorney for Defendant,  
15 Infinite Energy Home Services,  
16 Inc.  
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# **EXHIBIT 1**

**Subject:** E-filing failure, Case No. 2:21-cv-00438-WBS-KJN  
**Date:** Tuesday, April 25, 2023 at 00:51:08 Pacific Daylight Time  
**From:** Cagil Arel <cagilarel@kroghdecker.com>  
**To:** kkirkseysmith@caed.uscourts.gov <kkirkseysmith@caed.uscourts.gov>  
**CC:** Michael Croddy <michaelcroddy@kroghdecker.com>, Shawn Krogh <shawnkrogh@kroghdecker.com>, Gabriella Cavazos <gabriellacavazos@kroghdecker.com>  
**Attachments:** image001.png, image002.png, image003.png, image004.png, Screenshot 2023-04-25 at 00.18.00.png

Dear Ms. Smith:

We may have spoken on the phone earlier. I am the lead attorney for the Defendant in the matter of Infinity Energy Inc. v. Infinite Energy Home Services, Inc, Case No. 2:21-cv-00438-WBS-KJN. I phoned Judge Shubb's courtroom this afternoon and gave notice of Defendant's filing for a motion for summary judgment. We were given a May 30, 2023, 1.30 p.m. date for a hearing. We are currently experiencing difficulties with the e-filing system. We thought the quantity of documents may have been a factor, but when we tried to file the notice of motion without the accompanying papers, the system still did not let us proceed to the next page. I experienced another technical issue this afternoon and could not view the docket for some time. When I tried to enter the case file into the docket search, the system kept refreshing with a different number and it directed me to a case from the 2000s everytime. (Although it is not my intention to convey any sense of unprofessionalism, I am attaching an image of my internal office communication referring to the issue around 3-4 pm to demonstrate goodwill.) I'm not sure whether the issue is coming from the system or on our end, but we are trying to remedy it as promptly as possible.

We will be trying again through the e-filing system, and if we cannot make it work still, we intend to bring paper copies to the courthouse by close of business. I am respectfully requesting the Court to consider this issue as an extraordinary circumstance and not let it prejudice my client or the parties to the suit. I would appreciate it if you could advise accordingly as soon as you are able. Thank you for your attention in advance.

**Çağıl Arel**

*cha'il are'l*

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## **EXHIBIT 2**

Tuesday, April 25, 2023 at 12:46:50 Pacific Daylight Time

**Subject:** Infinity Energy v. Infinite Home Services - Case 2:21-cv-00438-WBS-KJN  
**Date:** Tuesday, April 25, 2023 at 12:46:50 Pacific Daylight Time  
**From:** Cagil Arel <cagilarel@kroghdecker.com>  
**To:** Benjamin Koegel <bkoegel@emklawyers.com>, pcronican@emklawyers.com  
<pcronican@emklawyers.com>  
**CC:** Shawn Krogh <shawnkrogh@kroghdecker.com>, Michael Croddy  
<michaelcroddy@kroghdecker.com>, Gabriella Cavazos <gabriellacavazos@kroghdecker.com>  
**Attachments:** image001.png, image002.png, image003.png, image004.png

Ben and Patrick: I am reaching out to let you of Defendant's Summary Judgment Filing. I am also notifying the occurrence of a technical failure that is preventing the motion from the e-filing. I spoke with the court clerk yesterday and gave notice of the filing. We sent the court a written notice of the situation. I spoke with the court clerk again this morning, and we are exploring alternative options. The situation will also be reflected in the motion papers. I also made a written request to the court not let this issue prejudice any of the parties. Thank you.

**Çağıl Arel**

*cha'il are'l*

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